D.B. CIVIL SPECIAL APPEAL (CIVIL) NO.73/1995.

Oriental Insurance Company
Vs.
Jainik Kumar & Ors.

Date of Order :: 2nd July 2007.

HON'BLE MR. JUSTICE P.B. MAJMUDAR
HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Anil Bachhawat, for the appellant.

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The insurer has submitted this appeal against the judgment dated 04.05.1995 passed by the learned Single Judge enhancing the award of compensation from Rs.25,000/- to the sum of Rs.1,50,000/- for the loss suffered by the injured-claimant due to the injuries sustained in the accident, essentially seeking to contend on its limited liability. However, learned counsel Mr. Anil Bachhawat appearing for the appellant insurer fairly submitted that cognate appeals, being DBSAC Nos. 72/1995 and 71/1995 relating to the same accident and arising out of the common award have already been dismissed by the Division Bench of this Court with the finding that the appellant-insurer has not even taken the plea of limited liability nor filed the insurance policy before the Tribunal.

We have called for the record of SAC No. 71/1995 and have gone through the order dated 01.03.2005 dismissing the said appeal. With the dismissal of the aforesaid appeals, the finding on liability, to the extent incurred, against the appellant-

insurer in relation to the same accident having already become final, we are clearly of opinion that no different finding can be recorded on limited liability in this appeal relating to the same accident and same insurance policy.

The appeal, therefore, fails and is dismissed as such. No costs.

(DINESH MAHESHWARI), J. **(P.B. MAJMUDAR), J.**

Mohan/